



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable George W. Cox
State Health Officer
Texas State Board of Health
Austin, Texas

Attention: P. A. Kirby

Dear Sir:

Opinion No. O-4653

Re: Authority of State Department
of Health to administer a cen-
tral pooling system for the
purchase of supplies for the
Texas and New Mexico Health
Departments.

We have your letter of June 17, 1942, submitting
the following question for an opinion from this department:

Can the Texas State Department of Health adminis-
ter a central pooling system to purchase supplies for the
Texas and New Mexico Health Departments; buy such supplies
independent of the State Board of Control; maintain this
fund in an Austin Bank and deposit and draw funds on the
signature of a person designated by the State Health Offi-
cer for payment for supplies purchased?

From the materials accompanying your letter, it
appears that the funds to be handled are funds granted by
the Federal Government; that the proposed "district mater-
ials pool" for the procurement of basic educational mater-
ials has three major objectives; (a) reduction of costs
of such materials by permitting bulk orders; (b) simplify-
ing and speeding up procurement procedures, especially with
the Government Printing Office; and (c) making available
individualized materials with specific State imprints. With-
in the District, a trustee state is selected by the Federal
agencies; the allotment of the trustee state in the District

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is increased by the total of the several state credits; this trustee state is to be trustee of the funds and must agree to submit a quarterly accounting to the District office and the several states involved. In addition, the trustee state must be one that has no laws limiting its purchase of printed or other materials from out of state sources, and whose purchasing regulations are such that advance-payment or C.O.D. orders can be handled.

The authority of your Department to accept and extend Federal funds is found in Section 2, Subsection 10, of the Current Appropriation Bill, Senate Bill 423, Acts Regular Session, 47th Legislature, which provides:

"United States Funds and Aid. The proper officer or officers of any State Departments, bureaus, or divisions of State agencies are hereby authorized to make application for and accept any gifts, grants, or allotments or funds from the United States Government to be used on State cooperative and other Federal projects and programs in Texas, including construction of public buildings, repairs, and improvements. Any of such Federal funds as may be deposited in the State Treasury are hereby appropriated to the specific purpose authorized by the Federal Government, and subject to the limitation placed on this Act."

It is a familiar principle of law, requiring no citation of authority, that public officers and agencies have only such powers as are conferred upon them by law. We find no provision of law authorizing the State Department of Health, expressly or by implication, to accept and administer Federal funds for the benefit of another state or states. It follows that the State Department of Public Health of the State of Texas cannot administer a central pooling system to purchase, with funds provided by the United States Government, supplies for both the Texas and New Mexico Health Departments.

In view of our answer to your main question, no answers to your subsidiary inquiries are necessary.

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The materials enclosed with your letter of inquiry are returned to you herewith.

Yours very truly

ATTORNEY GENERAL OF TEXAS

APPROVED JUN 23 1942

George W. Cox
FIRST ASSISTANT
ATTORNEY GENERAL

By

Richard W. Fairchild
Richard W. Fairchild
Assistant

RE: *imp*
Encl.

